WP(C) 1557/2007
BEFORE
THE HON'BLE MR JUSTICE D. BISWAS, CHIEF JUSTICE (ACTING)
THE HON'BLE MR. JUSTICE B.P. KATAKEY

Heard Mr. AM Mazumdar, learned senior counsel for the petitioner and also Ms. B. Goel, learned State Counsel.

This application has been filed by the petitioner contending that the petitioner married Musstt. Momotaj Begum, daughter of Muzamil Ali of Village - Nagakhal, P.S. Sonai as per the Islamic Rules and Regulations at Kahilipara, Guwahati on 13.3.2007 in presence of witnesses and an advocate determining Rs. 1 lakh as Mohor (dower money) after she attained the age of majority, as per the date of birth recorded in the Admit Card of HSLC Examination. They have also applied for registration of their marriage in the office of the Marriage Registrar at Guwahati. In the meantime, the father of Musstt. Momotaj Begum lodged an ejahar before the Sonai Police Station which has been registered as Sonai P.S. Case No.37/2007 under Sections 143/366(A)/506 I.P.C. alleging that the petitioner has kidnapped Musstt. Momotaj Begum. It would appear from the materials on record that the G.R. Case No.581/2007 has been registered in the Court of the learned Chief Judicial Magistrate, Cachar at Silchar and the kidnapped person was also produced before the Magistrate. Her statement under Section 164 Cr.P.C. was recorded by the learned Magistrate, Silchar. She has stated in her statement that they also got married by following the Islamic rights and rituals. She claimed in her statement that she is aged about 18 years.

In view of the above development and since the matter is pending with the learned Magistrate at Silchar, we propose to dispose of this petition with direction to the petitioner to move appropriate application before the learned Chief Judicial Magistrate for consideration and passing of appropriate orders regarding custody of Musstt. Momotaj Begum and, on such application being moved, the learned Chief Judicial Magistrate shall direct the parties to produce evidence about the age of the victim girl, determine the age and, if she is found to have attained the age of majority, she should be allowed to go with the person of her choice.

This writ petition accordingly stands disposed of with the above observation/direction.

A copy of this order be furnished to the learned counsel for the petitioner during the course of the day on payment.